

EXHIBIT A

This form is approved by the Illinois Supreme Court and must be accepted in all Illinois Courts.
Forms are free at ilcourts.info/forms.

| | | | | | |
|---|--|---|--|-------------------------------|--|
| STATE OF ILLINOIS, CIRCUIT COURT | | SUMMONS | | In County of _____ | |
| DuPage <input type="checkbox"/> COUNTY | | | | | |
| Instructions ▼ | | | | | |
| Enter above the county name where the case was filed. | | George Sanders Plaintiff / Petitioner (First, middle, last name) | | | |
| Enter your name as Plaintiff/Petitioner. | | v. | | | |
| Below "Defendants/ Respondents," enter the names of all people you are suing. | | Defendants / Respondents (First, middle, last name) E. A. Sween Company 46 IL Corp 801 Adlai Stevenson Dr SPFLD. | | 2023 LA 000927 Case Number | |
| Enter the Case Number given by the Circuit Clerk. | | <input type="checkbox"/> Alias Summons (Check this box if this is not the 1 st Summons issued for this Defendant.) | | | |

IMPORTANT: You have been sued.

- Read all documents attached to this Summons.
- You MUST file an official document with the court within the time stated on this Summons called an *Appearance* and a document called an *Answer/Response*. If you do not file an *Appearance* and *Answer/Response* on time, the judge may decide the case without hearing from you. This is called "default." As a result, you could lose the case.
- All documents referred to in this Summons can be found at ilcourts.info/forms. Other documents may be available from your local Circuit Court Clerk's office or website.
- After you fill out the necessary documents, you need to electronically file (e-file) them with the court. To e-file, you must create an account with an e-filing service provider. For more information, go to ilcourts.info/cfiling. If you cannot e-file, you can get an exemption that allows you to file in-person or by mail.
- You may be charged filing fees, but if you cannot pay them, you can file an Application for Waiver of Court Fees.
- It is possible that the court will allow you to attend the first court date in this case in-person or remotely by video or phone. Contact the Circuit Court Clerk's office or visit the Court's website to find out whether this is possible and, if so, how to do this.
- Need help? Call or text Illinois Court Help at 833-411-1121 or go to ilcourthelp.gov for information about going to court, including how to fill out and file documents. You can also get free legal information and legal referrals at illinoislegalaid.org. All documents referred to in this Summons can be found at ilcourts.info/forms. Other documents may be available from your local Circuit Court Clerk's office or website.
- ¿Necesita ayuda? Llame o envíe un mensaje de texto a Illinois Court Help al 833-411-1121, o visite ilcourthelp.gov para obtener información sobre los casos de la corte y cómo completar y presentar formularios.

Plaintiff/Petitioner:

Do not use this form in these types of cases:

- | | | |
|----------------------|------------------------------|-------------------------------|
| • All criminal cases | • Order of protection | • Adult guardianship |
| • Eviction | • Paternity | • Detinue |
| • Small Claims | • Stalking no contact orders | • Foreclosure |
| • Divorce | • Civil no contact orders | • Administrative review cases |

For eviction, small claims, divorce, and orders of protection, use the forms available at ilcourts.info/forms. If your case is a detinue, visit illinoislegalaid.org for help.

If you are suing more than 1 Defendant/Respondent, attach an *Additional Defendant/Respondent Address and Service Information* form for each additional Defendant/Respondent.

Enter the Case Number given by the Circuit Clerk: 2023 LA 000927

In 1a, enter the name and address of the first Defendant/ Respondent you are serving. If you are serving a Registered Agent, include the Registered Agent's name and address here.

In 1b, enter a second address for the first Defendant/ Respondent, if you have one.

In 1c, check how you are sending your documents to this Defendant/ Respondent.

1. Defendant/Respondent's address and service information:

a. Defendant/Respondent's primary address/information for service:

Name (First, Middle, Last): E. A. Sween Company

Registered Agent's name, if any: Illinois Corporation Service Company

Street Address, Unit #: 801 Adlai Stevenson Drive

City, State, ZIP: Springfield, IL 62703

Telephone: (866) 403-5272

Email: _____

b. If you have more than one address where Defendant/Respondent might be found, list that here:

Name (First, Middle, Last): _____

Street Address, Unit #: _____

City, State, ZIP: _____

Telephone: _____

Email: _____

c. Method of service on Defendant/Respondent:

☒ Sheriff

☐ Sheriff outside Illinois: _____

County & State

☐ Special process server

☐ Licensed private detective

☐ **I am serving more than 1 Defendant/Respondent.**

I have attached _____ Additional Defendant/Respondent Address
Number
and Service Information forms.

2. Information about the lawsuit:

a. Amount claimed: In excess of \$50,000.00

☐ **b. I am asking for the return of tangible personal property (items in the Defendant/Respondent's possession).**

3. Contact information for the Plaintiff/Petitioner:

Name (First, Middle, Last): George Sanders c/o James P. Kenny

Street Address, Unit #: 111 East Wacker Drive, Suite 500

City, State, ZIP: Chicago, IL 60601

Telephone: (312) 506-4450

Email: jkenny@airdowerwas.com

GETTING COURT DOCUMENTS BY EMAIL: You should use an email account that you do not share with anyone else and that you check every day. If you do not check your email every day, you may miss important information, notice of court dates, or documents from other parties.

Important information for the person getting this form

You have been sued. Read all of the documents attached to this *Summons*. To participate in the case, you must follow the instructions listed below. If you do not, the court may decide the case without hearing from you and you could lose the case. *Appearance* and *Answer/Response* forms can be found at: ilcourts.info/forms.

Check 4a or 4b. If Defendant/Respondent only needs to file an *Appearance* and *Answer/Response* within 30 days, check box 4a. Otherwise, if the clerk gives you a court date, check box 4b.

4. Instructions for person receiving this *Summons* (Defendant):

☒ **a. To respond to this *Summons*, you must file *Appearance* and *Answer/Response* forms with the court within 30 days after you have been served (not counting the day of service) by e-filing or at:**

Address: 505 N County Farm Road

City, State, ZIP: Wheaton, IL 60187

In 4a, fill out the address of the court building where the Defendant may file or e-file their Appearance and Answer/Response.

In 4b, fill out:

- The court date and time the clerk gave you.
- The courtroom and address of the court building.
- The call-in or video information for remote appearances (if applicable).
- The clerk's phone number and website. All of this information is available from the Circuit Clerk.

☐ b. Attend court:
On: _____ at _____ ☐ a.m. ☐ p.m. in _____
Date Time Courtroom

In-person at:

Courthouse Address City State ZIP

OR

Remotely (You may be able to attend this court date by phone or video conference.

This is called a "Remote Appearance"):

By telephone: _____
Call-in number for telephone remote appearance

By video conference: _____
Video conference website

Video conference log-in information (meeting ID, password, etc.)

Call the Circuit Clerk at: _____ or visit their website
Circuit Clerk's phone number

at: _____ to find out more about how to do this.
Website

STOP!

The Circuit Clerk will fill in this section.

Witness this Date: 9/11/2023 3:56 PM

Clerk of the Court: DW



Candice Adams

STOP! The officer or process server will fill in the Date of Service

Note to officer or process server:

- If 4a is checked, this *Summons* must be served within 30 days of the witness date.
- If 4b is checked, this *Summons* must be served at least 21 days before the court date, unless 2b is also checked.
 - If 4b and 2b are checked, the *Summons* must be served at least 3 days before the court date.

Date of Service: _____
(Date to be entered by an officer or process server on the copy of this Summons left with the Defendant or other person.)

{05/23}

☐ I was not able to serve the *Summons* and Complaint/Petition on Defendant/Respondent:

First, Middle, Last

I made the following attempts to serve the *Summons* and Complaint/Petition on the Defendant/Respondent:

1. On this date: _____ at this time: _____ ☐ a.m. ☐ p.m.
Address: _____
City, State, ZIP: _____
Other information about service attempt: _____

2. On this date: _____ at this time: _____ ☐ a.m. ☐ p.m.
Address: _____
City, State, ZIP: _____
Other information about service attempt: _____

3. On this date: _____ at this time: _____ ☐ a.m. ☐ p.m.
Address: _____
City, State, ZIP: _____
Other information about service attempt: _____

DO NOT complete this section. The sheriff or private process server will complete it.

If you are a special process server, sheriff outside Illinois, or licensed private detective, your signature certifies that everything on the *Proof of Service of Summons* is true and correct to the best of your knowledge. You understand that making a false statement on this form could be perjury.

Under the Code of Civil Procedure, 735 ILCS 5/1-109, making a statement on this form that you know to be false is perjury, a Class 3 Felony.

By:

Signature by: ☐ Sheriff
☐ Sheriff outside Illinois:

County and State
☐ Special process server
☐ Licensed private detective

FEES

| | |
|---------------------|---------|
| Service and Return: | \$ |
| Miles | \$ |
| Total | \$ 0.00 |

Print Name

If *Summons* is served by licensed private detective or private detective agency:

License Number: _____

IN THE CIRCUIT COURT OF THE EIGHTEENTH
JUDICIAL DISTRICT OF DUPAGE COUNTY, ILLINOIS

GEORGE SANDERS.

Plaintiff(s),

v.

E.A. SWEEN COMPANY,

Defendant(s).

2023LA000927

Court No:

Candice Adams
e-filed in the 18th Judicial Circuit Court
DuPage County
ENVELOPE: 24218478
2023LA000927
FILEDATE: 9/1/2023 12:33 PM
Date Submitted: 9/1/2023 12:33 PM
Date Accepted: 9/1/2023 2:13 PM

Jury Trial Demanded

COMPLAINT AT LAW

Plaintiff, George Sanders (“Plaintiff”), by and through his attorneys, Airdo Werwas LLC, brings this Complaint against Defendant E.A. Sween Company (“Defendant” or “E.A.S.”) for its violations of the Illinois Biometric Information Privacy Act, 740 ILCS 14/1, *et seq.* (the “BIPA”) and states as follows:

INTRODUCTION

1. BIPA defines a “biometric identifier” as any personal feature that is unique to an individual, including retina or iris scans, fingerprints, and face geometry. “Biometric information” is any information based on a biometric identifier, regardless of how it is converted or stored. Collectively, biometric identifiers and biometric information are known and referred to herein as “biometrics.” 740 ILCS 14/10.

2. Defendant is a wholesaler and distributor of ready-to-eat sandwiches and other convenience store products.

3. Defendant conducts business and operations in DuPage County, Illinois.

4. Defendant operates out of a facility at 10350 Argonne Dr # 500, Woodridge, Illinois 60517 (the “Facility”).

5. Defendant required Plaintiff to clock-in and out for their shifts at the Facility.

6. Defendant required Plaintiff, to provide his biometric identifiers in the form of his facial geometry and related biometric information as part of the process for beginning and ending his respective work shifts as part of his employment with Defendant.

7. The unique nature of biometric identifiers allows private entities, such as Defendant, to instantly gather an accurate “signature” of all who clock-in and clock-out of their respective shifts as a condition of their employment.

8. Unlike ID badges or access cards – which can be changed or replaced if stolen or compromised – fingerprints and facial recognition are unique, permanent, biometric identifiers associated with each individual employee. Defendant’s conduct exposed, and is continuing to expose the employees to serious and irreversible privacy risks. For example, if a database containing facial scans or other sensitive, proprietary biometric data is hacked, breached, or otherwise exposed employees have no means which to prevent identity theft, unauthorized tracking, or other unlawful or improper use of this highly personal and private information.

9. BIPA provides, inter alia, that a private entity, such as Defendant, may not collect, capture, purchase, or otherwise obtain an individual’s biometric identifiers, such as fingerprints and hand scans, or any biometric information, regardless of the manner from which it was converted, or is converted or stored, unless it first:

- a. Informs that person in writing that biometric identifiers or biometric information will be collected or stored;

- b. Informs that person in writing of the specific purpose and the length of term for which such biometric identifiers or biometric information is being collected, stored, and used; and
- c. Receives a written release from the person for the collection of their biometric identifiers or biometric information.

740 ILCS 14/15(b)(1)-(3)

10. BIPA also requires private entities in possession of biometrics to develop a publicly available written policy outlining the storage and destruction policies of such biometric identifiers, and/or any biometric information derived from such identifiers. 740 ILCS 14/15(a).

11. Finally, private entities are prohibited from profiting from an individual's biometric identifiers or biometric information, as well as disclosing the same to third parties without informed consent. 740 ILCS 14/15(c) & (d).

12. In fact, "biometrics are unlike other unique identifiers that are used to access finances or other sensitive information," 740 ILCS 14/5(c), and therefore require special treatment compared to traditional private personal information. For example, even sensitive information like Social Security numbers, when compromised, can be changed. "Biometrics, however, are biologically unique to each individual; therefore, once compromised, the individual has no recourse, is at a heightened risk for identity theft, and is likely to withdraw from biometric facilitated transactions." 740 ILCS 14/5(c).

13. Plaintiff brings this action for statutory damages and other remedies as a result of Defendant's collective and respective conduct in violating his biometric privacy rights under BIPA.

14. Compliance with BIPA is straightforward and minimally burdensome. For example, the necessary disclosures may be accomplished through a single sheet of paper.

15. BIPA's requirements bestow a right to privacy in biometrics and a right to make an informed decision when electing whether to provide or withhold their biometrics.

16. The deprivation of the statutory rights conferred by BIPA constitutes the actual injuries the Illinois Legislature sought to prevent.

17. Plaintiff seeks an injunction as necessary requiring Defendant to comply with BIPA, as well as an award of statutory damages to Plaintiff and monetary damages to be determined at trial, together with costs and reasonable attorney's fees.

PARTIES

18. Defendant conducts business through its office located at 10350 Argonne Dr # 500, Woodridge, Illinois 60517, and is authorized to do business in Illinois and has an Illinois registered agent.

19. At all relevant times, Plaintiff has been a resident and citizen of the state of Illinois and was employed at the Defendant's Woodridge Facility in Illinois during the course of his employment with Defendant.

JURISDICTION AND VENUE

20. This Court has jurisdiction over Defendant pursuant to 735 ILCS 5/2-209 because it conducts business transactions in Illinois, has an office in Illinois, committed the alleged statutory violations in Illinois, and is authorized to conduct business in Illinois.

21. Venue is proper in DuPage County pursuant to 735 ILCS 5/2-101, because Defendant conducts business in DuPage County, has an office in DuPage County, and committed the alleged statutory violations DuPage County, Illinois.

FACTS

22. From the period beginning February 27, 2022, to April 19, 2022, Plaintiff was under the employ of Defendant E.A. Sween as a driver and delivery man.

23. Plaintiff was not a member of any labor union as part of his employment nor was Plaintiff's employment controlled by any Collective Bargaining Agreement.

24. During the relevant time period, Plaintiff worked at Defendant's Facility at 10350 Argonne Dr # 500, Woodridge, Illinois 60517 as a truck driver and delivery person.

25. As part of his employment, Plaintiff was required to scan his biometric identifiers and/or biometric information, *i.e.*, his face and related information, into Defendant's biometrically enabled security and identity verification devices and associated technology (the "Biometric System") in order to clock-in and clock-out of work.

26. Using the Biometric System, Defendant, on information and belief, collected, captured, and stored biometric identifiers and biometric information from Plaintiff and other employees working at the Facility.

27. Defendant, nonetheless, failed to provide any written disclosures describing the purpose and duration of such use.

28. Further, Defendant failed to obtain informed written consent from Plaintiff and other employees prior to collecting, capturing, storing, and disseminating such information, as required by BIPA.

29. By failing to comply with BIPA, Defendant has violated Plaintiff's substantive state rights to biometric privacy.

COUNT I

Violations of the Illinois Biometric Privacy Act, 740 ILCS 14/1, *et seq.*

30. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

31. Defendant E.A. Sween is a private entity covered by BIPA.

32. In order to secure the workplace, maintain employment records, and identify current and former employees' hours worked, Defendant, on information and belief, collected, captured, stored, used, and disseminated biometric identifiers and/or biometric information.

33. The information and data that Defendant obtained does not exist absent the collection, capture, storage, transfer, and use of Plaintiff's biometric identifiers and/or biometric information.

34. Prior to obtaining Plaintiff's biometric identifies and/or biometric information, and in violation of 740 ILCS 14/15(b), Defendant failed to provide any written disclosures regarding its use of such information, nor the purpose or duration of such use, and Defendant failed to obtain written releases from Plaintiff in order to legally collect and obtain such information.

35. Prior to storing Plaintiff's biometric information without their informed consent, and in violation of 740 ILCS 14/15(a), Defendant failed to make publicly available a retention and destruction schedule for such biometric information.

36. BIPA provides for statutory damages of \$5,000 for each willful and/or reckless violation of BIPA and, alternatively, damages of \$1,000 for each negligent violation of the BIPA.

37. Defendant's violations of BIPA, as set forth herein, on information and belief, were knowing and willful, or were at least in reckless disregard of the statutory requirements. Alternatively, Defendant negligently failed to comply with BIPA.

38. Accordingly, with respect to Count I, Plaintiff prays for the relief set forth below.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter an Order:

- a. Declaring that Defendant's actions, as set forth herein, violate BIPA;
- b. Awarding injunctive and equitable relief as necessary to protect the interests of Plaintiff by requiring Defendant to comply with BIPA pursuant to 740 ILCS 14/20(4);
- c. Awarding statutory damages of \$5,000 for each willful and/or reckless violation of the BIPA, pursuant to 740 ILCS 14/20(2);
- d. Awarding statutory damages of \$1,000 for each negligent violation of the BIPA, pursuant to 740 ILCS 14/20(1);
- e. Awarding reasonable attorneys' fees and costs, including expert witness fees and other litigation expenses, pursuant to 740 ILCS 14/20(3);

- f. Awarding pre- and post-judgment interest, as allowable by law; and
- g. Awarding such further and other relief as the Court deems just and equitable.

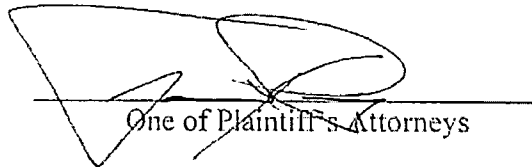
JURY DEMAND

Plaintiff requests trial by jury of all claims that can be so tried.

Respectfully Submitted,

GEORGE SANDERS, Plaintiff

By:



One of Plaintiff's Attorneys

James P. Kenny
Troy D. Gilbert
AIRDO WERWAS, LLC
Atty: No. 232194
111 East Wacker Drive Suite 500
Chicago, IL 60601-4205
(312)506-4450 Phone
(312)506-4460 Fax
jkenny@airdowerwas.com
tgilbert@airdowerwas.com

EXHIBIT B

**IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
ILLINOIS EASTERN DIVISION**

| | | |
|---------------------|---|----------|
| George Sanders, |) | |
| |) | |
| |) | |
| Plaintiff, |) | Case No. |
| |) | |
| vs. |) | |
| |) | |
| |) | |
| E.A. Sween Company, |) | |
| |) | |
| Defendant. |) | |
| |) | |

**DECLARATION IN SUPPORT OF E.A. SWEEN COMPANY'S
NOTICE OF REMOVAL**

I, Jeff Trevino, declare and state as follows:


1. I am currently employed as the Senior Human Resources Manager for E.A. Sween Company ("E.A. Sween").
2. I make this declaration based on my personal knowledge and on my review of company records maintained in the regular course of E.A. Sween's business.
3. E.A. Sween is a corporation incorporated under the laws of the state of Minnesota. Its company headquarters are in Eden Prairie, Minnesota, which is the location from which the majority of E.A. Sween's corporate officers and other top management personnel direct the operations of the company. For example, E.A. Sween's CEO, CFO, and VP of People and Strategies work out of this location.
4. Through my job duties as Senior Human Resources Manager for E.A. Sween, I have access to and am familiar with E.A. Sween employment records, which are maintained in the ordinary course of business. I have reviewed the employment records for George Sanders, which reflect that he lived in Illinois at the time he worked at E.A. Sween.

5. Mr. Sanders started employment with E.A. Sween on or around February 27, 2022 and was employed through April 19, 2022 at its Woodridge, Illinois facility as a Route Delivery Driver.

6. My job duties as Senior Human Resources Manager for E.A. Sween include being familiar with and having access to the company's time reporting and payroll systems. I have reviewed a report from one such system that reflects how often Mr. Sanders clocked into and out of the timekeeping system at issue in this litigation. By April 19, 2022, Mr. Sanders had clocked in and out of this system over 40 times.

I declare under penalty of perjury that the foregoing is true and correct.

Dated October 13, 2023

DocuSigned by:

1559DE95B41C4DF...

Jeff Trevino